

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.18151 of 2007

Date: 31.08.2007

Between:

M.Praveen Kumar

...Petitioner

And

Transmission Corporation of Andhra Pradesh Ltd. and others

...Respondents

-

ORDER:

Respondents 1 and 2 invited tenders for awarding the contract of maintenance of 132 KV Sub Stations at Dharmapuri and Sugulampally. The petitioner, respondents 3 and 4 and some others submitted their tenders. On consideration of the same, the second respondent awarded the contract of Sugulampally and Dharmapuri Sub Stations in favour of respondents 3 and 4 respectively. The same is challenged in this writ petition.

It is contended that the petitioner is better suited and well experienced when compared to respondents 3 and 4 and there was no basis for respondents 1 and 2 in denying the contract to the petitioner.

On behalf of respondents 1 and 2, a counter-affidavit is filed. The fact that the petitioner submitted the tender for the two Sub Stations is admitted. It is also stated that respondents 3 and 4 had prior experience of handling and maintaining 132 KV Sub Stations, whereas the experience of the petitioner is limited to the maintenance of 33/11 KV Sub Stations. It was also pointed out that the petitioner does not have the E.P.F. registration.

Heard Sri V.Hari Haran, the learned counsel for the petitioner and Sri O.Manohar Reddy, the learned standing counsel

for respondents 1 and 2.

The petitioner and respondents 3 and 4 quoted the same rates for maintenance of two Sub Stations referred to above. In the terms and conditions appended to the tender notification, this situation is contemplated and the following measure was adopted to resolve the controversy.

“When more than one bidder quotes the same rates on par with lowest rates, then selection from such bidders will be made depending upon the qualification, experience, past performance, penalty quoted and the native direct.”

Since the rates offered by the petitioner and respondents 3 and 4 were the same, the necessity to assess their merit on the criteria mentioned in the above paragraph became relevant. Though it is submitted by the learned counsel for the petitioner that the criteria, such as, qualification, experience, past performance etcetera must be considered in their order of priority, this Court is not inclined to accept the same. It is the cumulative effect of the assessment of the candidates on the above aspects, that becomes relevant. Simply because, a tenderer is highly qualified, he cannot be selected, notwithstanding the lack of experience. The same is the case with other aspects.

In the instant case, it has emerged that the experience of the petitioner was limited to the maintenance of 33/11 KV Sub Stations, whereas, respondents 3 and 4 had experience in handling 132 KV Sub Stations. The petitioner concedes

that the fourth respondent is more qualified than him. The comparison of qualification of the petitioner on the one hand and the fourth respondent on the other, poses some difficulty of its own. However, in view of the superior experience of respondents 3 and 4, it cannot be said that there was any mistake or irregularity in awarding contract to them. While the petitioner asserts that he has got E.P.F. code, the respondents deny the same. Inasmuch as the contract was awarded on the basis of the better experience of respondents 3 and 4, the other controversy pales into insignificance.

Hence, the writ petition is dismissed. There shall be no order as to costs.

31.08.2007

kdl